

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

WILMINGTON SAVINGS FUND SOCIETY,  
FSB, AS OWNER TRUSTEE OF THE  
RESIDENTIAL CREDIT OPPORTUNITIES  
TRUST VII-A,

Case No. 21-cv-00375-KG-JFR

Plaintiff,

v.

MAX A. JURISH, GEORGIANNA JURISH,  
and KIRTLAND FEDERAL CREDIT UNION,

Defendants.

STIUPLATED ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION FOR  
SUMMARY JUDGMENT SEEKING FORECLOSURE

THIS MATTER comes before the Court on Plaintiff's Unopposed Motion for Summary Judgment on Foreclosure Claim ("Motion"). Defendant Kirtland Federal Credit Union does not oppose the Motion, and Defendants Max A. Jurish and Georgianna Jurish have consented to entry of judgment and have disclaimed any interest in the real estate at issue in this litigation by virtue of their filed disclaimers of interest. *See* Disclaimer of Interest and Acceptance of Service for Max Jurish at 1, filed July 6, 2021 (Doc. 10-1) ("Disclaimer of Interest for Max Jurish"); Disclaimer of Interest and Acceptance of Service for Georgianna Jurish at 1, filed July 6, 2021 (Doc. 11-1) ("Disclaimer of Interest for Georgianna Jurish").

There being no opposition to the Motion, the Court hereby GRANTS the Motion for Summary Judgment on Foreclosure as follows:

1. No deficiency judgment is sought in this matter.
2. Plaintiff is granted an in rem judgment in the amount described below against the real estate described as follows:

LOTS NUMBERED ONE (1) AND TWO (2) IN BLOCK NUMBERED TWO (2) OF MELODY RANCH, AS THE SAME IS SHOWN AND<sup>1</sup> DESIGNATED ON THE PLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF TORRANCE COUNTY, NEW MEXICO ON APRIL 19, 1988 IN CABINET B, SLIDE 141,

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes. The real property that is the subject matter of this foreclosure action (the “described property”) is more commonly known as 1 Tom Mix Dr., Edgewood, New Mexico 87015.

3. Defendants Max A. Jurish and Georgianna Jurish have failed to make payments due under the Note and Mortgage attached to the Amended Complaint for Foreclosure, filed May 27, 2021 (Doc. 7) (“Amended Complaint”) in this matter. The terms of the Note and Mortgage entitle Plaintiff to foreclose the Mortgage and to have the described property sold in order to collect the principal and interest due, and that total sum is declared to be a lien upon the real estate described above.

4. As more particularly described below, the total judgment amount in favor of the Plaintiff is \$79,195.75—an amount inclusive of attorney’s fees and the \$402 filing fee for complaints—plus an additional \$12.08 per day in interest from the date of July 8, 2021 forward, plus as allowed by law the cost of property tax payments extended in relation to the described property, publication expenses for a foreclosure auction, special master’s fees for conducting a foreclosure auction, and title report costs.

5. The judgment amount is the principal balance of \$50,418.25, plus interest accruing on the principal balance at the rate of 8.6250% per annum through and including July 7,

---

<sup>1</sup> The respective Mortgage contains one typographical error in the legal description, specifically using the word “ans” in this location of the description as opposed to “and.” See Mortgage at 1, filed May 27, 2021 (Doc. 7-2). Defendants Max Jurish and Georgianna Jurish have previously consented to correction of any typographical errors in the property description. See Disclaimer of Interest for Max Jurish at 1; Disclaimer of Interest for Georgianna Jurish at 1.

2021 in the amount of \$10,219.15 and thereafter accruing at the rate of \$12.08 per day, plus late charges of \$19.19, plus other unpaid loan charges and late charges in the amount of \$8,143.66, plus payoff charges from the servicer of \$120.00.

6. Plaintiff's Mortgage on the described property is foreclosed and all the described property is ordered sold in accordance with the laws, rules and practices of this Court to the highest bidder, for cash. Such sale shall be as soon as the Special Master can arrange for and publish the sale.

7. David Washburn is hereby appointed as Special Master to conduct such sale. As needed, the special master may appoint an alternative designee to fulfill his obligations as special master without further order of the Court in which case the designee assumes all the special master's responsibilities.

8. The proceeds of this sale shall be applied in the following amounts and in the following priorities:

- a. Cost and expenses of the special master and other foreclosure fees.
- b. Amounts paid by Plaintiff for title commitments, expenses, costs of this action and any tax, assessments or costs which are or may be due under the terms of the Note and Mortgage attached to the Amended Complaint.
- c. Reasonable attorney's fees in the amount of \$9,170.50 and related gross receipts tax in the amount of \$722.19, plus the filing fee for the foreclosure complaint of \$402.
- d. The amount due to Plaintiff for the principal and interest due on the Note and Mortgage attached to the Amended Complaint, plus interest on the total amount of Plaintiff's Judgment from the date hereof until paid.
- e. After paying all of the above, should there be any money from the judicial sale

left over, it shall be paid to Defendant Kirtland Federal Credit Union, according to its respective interest in the described property, and, if any amount remains after satisfaction of Defendant Kirtland Federal Credit Union's lien, such amounts shall be awarded to Defendants Max A. Jurish and Georgianna Jurish jointly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should the proceeds of the judicial sale of the described property be insufficient to pay the full amount of the debt to Plaintiff and the costs of judicial sale, that Plaintiff agrees to waive any deficiency judgment against Defendants Max A. Jurish and Georgianna Jurish.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are no valid liens or encumbrances on the described property prior to Plaintiff's lien and that Defendants Max A. Jurish and Georgianna Jurish are adjudged not to have any other rights or interests in the described property, and any rights that they may have are hereby foreclosed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Kirtland Federal Credit Union's interest in the property is foreclosed as junior to Plaintiff's mortgage lien. Said interest arises from the Transcript of Judgment related to Defendant Kirtland Federal Credit Union recorded on August 26, 2008 as Instrument Number 002083089 in the Official Records in Torrance County, New Mexico in relation to the court proceeding with Case No. CV-04900-08.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT any interest claimed by any person in the described property that arose subsequent to the recorded notice of lis pendens related to this lawsuit is invalid pursuant to NMSA 1978, § 38-1-14.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, to the extent they attempt to retake the described property of which Plaintiff is already in possession, Defendants Max A. Jurish and Georgianna Jurish shall relinquish possession of the described property on or before fourteen (14) days from the date of this Order unless Plaintiff agrees. Upon separate

order from the Court, Plaintiff shall be entitled to an order directing an appropriate law enforcement official to remove any and all occupants from the described property and putting Plaintiff in possession until the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Special Master will execute and deliver to the purchaser or purchasers of the described property a good and sufficient special master's deed or sale receipt when the special master's report is approved by this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the purchaser of the described property be let into possession of the same on production of the special master's deed or sale receipt.


THEREFORE, this purchaser shall hold the described property free and clear of all right, title and interest of Defendants, as well as all persons claiming under them subsequent to the execution of the involved note and mortgage at issue in this foreclosure action. Defendants are hereby and forever barred and foreclosed from having or claiming any right, title or interest in the described property adverse to the purchaser, therefore, except only the right of redemption allowed by the law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if personal property remains on the described property after entry of the order approving sale in this matter that the personal property is deemed abandoned and the purchaser may dispose of the personal property in any manner pursuant to applicable law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff may bid at such sale or may become said purchaser of the described property foreclosed herein and that Plaintiff may bid the full or partial amount of its judgment as a credit bid at the foreclosure sale for the described property in lieu of bidding cash.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the period of redemption shall be one (1) month.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff has the right to file transcripts of judgment in the property records and other necessary filings in the property records to effectuate this Order and to effectuate transfer of the property.

  
UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

KELEHER & MCLEOD, P.A.

/s/ Ryan M. Walters  
Ryan M. Walters  
Attorneys for Plaintiff Wilmington Savings  
PO Box AA  
Albuquerque, NM 87103  
Phone: 505-346-4646  
rmw@keleher-law.com

APPROVED BY:

/s/ Jason M. Wexler (approved via email September 9, 2021)  
Jason M. Wexler  
Aldridge, Hammar & Wexler, P.A.  
1212 Pennsylvania NE  
Albuquerque, NM 87110  
Phone: 505-266-8787  
jwexler@abqlawnm.com

(consent to in rem judgment filed of record at Doc. 10-1)  
Max A. Jurish  
10620 N. Longview Ave  
Marana, AZ 85653

(consent to in rem judgment filed of record at Doc. 11-1)  
Georgianna Jurish  
10620 N. Longview Ave  
Marana, AZ 85653